REMARKS

Claims 1-21 are pending in the present application. Claims 1, 7-12, and 18-21 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Roeck (U.S. Patent No. 6,594,305) in view of Nay (U.S. Patent No. 5,237,567). Claims 2-3 and 13-14 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Roeck in view of Nay and further in view of Spelman (U.S. Patent No. 5,680,458). Claims 4 and 15 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Roeck in view of Nay and further in view of Mergard (U.S. Patent No. 5,881,248). Claims 6 and 17 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Roeck in view of Nay and further in view of Whitmire (U.S. Patent No. 6,115,817). The Examiner's rejections are respectfully traversed.

The Examiner maintains that Nay describes generating an authentication code. Applicants respectfully disagree. Nay describes using parity bits, check bits, and/or checksums for error detection and/or correction. (Nay, col. 37, lines 35-62) The purpose of error checking codes are to verify that the data was sent properly and to correct the data, if possible. "When the destination card detects an error in the data, the syndrome can be used by conventional techniques to restore good data if the error is only a single bit error." (Nay - col. 37, lines 60-63). The error identified by Nay is a data transmission error, not a security violation. If Nay detects a problem, the data is corrected or resent. Nay does not detect a security violation, because Nay does not contemplate that the data may be tampered with, but rather only that the data was not received properly.

A recent Federal Circuit case makes it crystal clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61

U.S.P.Q.2d 143 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35. It is respectfully submitted that any attempt to assert that the invention defined by independent claim 1 is obvious in view of the prior art of record constitutes an impermissible use of hindsight using Applicants' disclosure as a roadmap.

Even if the Roeck and Nay are combined as suggested by the Office Action, the combination does not disclose each and every element of the claimed invention. As admitted by the Office Action, Roeck is completely silent with regard to the use of authentication codes or determining security violations. Nay also fails to address security, only data transmission accuracy. A system constructed by combining Roeck and Nay would simply attempt to correct a transmission error if the received data did not match the checksum using known ECC techniques or request the data be transmitted again. This is similar to what modems implementing ECC code already do with data received over the communication channel. Data errors are not classified as security violations. Identifying a data transmission error simply does not equate to identifying a security violation.

Accordingly, Applicants respectfully submit that the cited references fail to teach or suggest all limitations of the claimed invention. Spelman describes techniques for sending authentication codes, Mergard describes using unused portions of a bus, and Whitmire describes cryptography techniques. However, none of these references remedy the fundamental deficiencies of Roeck and Nay, as they are not directed to authenticating control codes or signaling a security violation.

For at least the aforementioned reasons, Applicants respectfully submit that the Examiner has failed to make a *prima facie* case that the present invention is obvious over the prior art of

record. Applicants request that the Examiner's rejections of claims 1-4, 6-15, and 17-21 under 35 U.S.C. 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned attorney at (713) 934-4070 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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